

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

KAISHIRA J. BURTON,

Defendant.

)
)
)
)
)
)
)
)
)
)

I.D. No. 1811015215

ORDER

AND NOW TO WIT, this 15th day of November 2019, upon consideration of Defendant Kaishira J. Burton's ("Defendant") Motion for Modification of Sentence, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1. On May 20, 2019, Defendant pleaded guilty to two counts of Drug Dealing.¹ On May 20, 2019, for the first Drug Dealing charge, Defendant was sentenced to eight years at Level V, suspended after two years at Level V, for transitioning levels of supervision between Level IV Crest and Level III Crest Aftercare.² For the second Drug Dealing charge, Defendant was sentenced to fifteen years at Level V, suspended for eighteen months at Level III probation.³

¹ Final Case Review: Defendant Guilty/Sentenced, *State of Delaware v. Kaishira J. Burton*, Crim. ID No. 1811015215, D.I. 17 (Del. Super. May 20, 2019) (Count 1: Drug Dealing Heroin (Class D felony), Count 2: Drug Dealing Heroin (Class C felony)).

² Sentence: ASOP Order Signed and Filed on 05/21/2019, *State of Delaware v. Kaishira J. Burton*, Crim. ID No. 1811015215, D.I. 18 (Del. Super. May 20, 2019).

³ *Id.*

Defendant's sentence calls for Level V time to run consecutively and probation to run concurrently. In sum, she received two years of incarceration followed by transitioning levels of probation in relation to Crest and Crest Aftercare programs.

2. On August 20, 2019, Defendant asked this Court to modify her sentence.⁴ Defendant's sentence calls for Defendant to complete Level IV Crest, and spend eighteen months at Level III Crest Aftercare. Defendant requests for the Court to modify her Level IV sentence from Level IV Crest to Level IV Work Release.⁵ In support of her motion, Defendant states the following grounds for relief: (1) Defendant has "taken time to reflect on [her] actions[;]" (2) Defendant has taken responsibility for her actions; (3) Defendant has "taken the necessary steps to work on obtaining [her] GED and/or high school diploma[;]" and (4) Defendant has "contacted [her] previous employer who is willing to accept [her] as soon as [she] is able to work."⁶

3. Defendant does not specifically cite to Superior Court Criminal Rule 35(b) in her motion. But throughout her letter, she does ask the Court to "remove" portions of her sentence. Generally, "[t]here is no separate procedure, other than that which is provided under Superior Court Criminal Rule 35, to reduce or modify

⁴ Motion for Modification of Sentence (Letter) Filed Pro Se, *State of Delaware v. Kaishira J. Burton*, Crim. ID No. 1811015215, D.I. 19 (Del. Super. Aug. 20, 2019) [hereinafter "Def.'s Mot."].

⁵ Def.'s Mot. at page 2.

⁶ *Id.* at 1-2.

a sentence.”⁷ Under Superior Court Criminal Rule 35(b), “[t]he Court may . . . reduce the . . . term or conditions of partial confinement or probation, at any time.”⁸ Defendant is not time-barred because she does not seek to modify or reduce her Level V sentence, but rather requests a reduction of her probation.

4. Defendant’s sentence was imposed pursuant to a Plea Agreement between the State and Defendant.⁹ After an appropriate colloquy, the Court addressed Defendant in open court pursuant to Superior Court Criminal Rule 11(c)(1) and determined that she understood the nature of the charge to which the plea was offered. Defendant fully acknowledged in open court that the range of possible penalties included the sentence that was imposed by the Court in this case.

5. The Court commends Defendant for her efforts toward obtaining her G.E.D. and preparing to return to the community. However, this Court *specifically* sought this route of treatment for Defendant, including Crest and Crest Aftercare based on Defendant’s history.¹⁰ No additional information has been provided to the Court that would warrant a modification of this sentence. As such, the sentence was and remains appropriate for all the reasons stated at the time of sentencing.

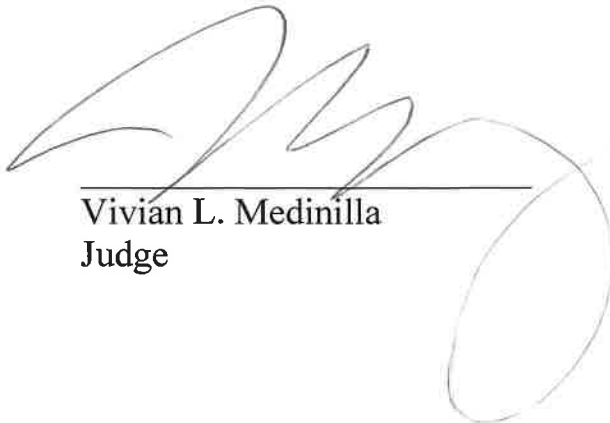
⁷ *Jones v. State*, 2003 WL 21210348, at *1 (Del. May 22, 2003).

⁸ SUPER. CT. CRIM. R. 35(b).

⁹ Final Case Review: Defendant Guilty/Sentenced, *State of Delaware v. Kaishira J. Burton*, Crim. ID No. 1811015215, D.I. 17 (Del. Super. May 20, 2019).

¹⁰ Defendant’s Sentence also calls for Defendant to be evaluated for substance abuse and follow recommendation for treatment, counseling, and screening. *See* Sentence: ASOP Order Signed and Filed on 05/21/2019, *State of Delaware v. Kaishira J. Burton*, Crim. ID No. 1811015215, D.I. 18 (Del. Super. May 20, 2019).

IT IS SO ORDERED that Defendant's Motion for Modification of Sentence
is **DENIED**.



Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Defendant
Department of Justice
Investigative Services